

INFORMATION BULLETIN #45

SALES TAX

DECEMBER 2002

(Replaces Information Bulletin #45 dated December, 1991)

DISCLAIMER: Informational bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is not consistent with the law, regulations or court decisions is not binding on either the Department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUBJECT: Vending Machines and Other Food Holding Units

REFERENCE: IC 6-2.5-5-20

I. Vending Machine Sales

A vending machine is a mechanical device that dispenses items for either money or tokens. As a general rule, sales tax must be collected on sales made from a vending machine, including sales of food (fruit, sandwiches, etc.) and beverages.

Because of the nature of vending machine sales, the sales tax due cannot be

separately stated on a receipt. A person responsible for collecting sales tax on vending machine sales must post a sign on the vending machine stating that sales tax is included in the price.

If no sign is posted, the Department will assume that the price of the item does not include tax. Thus, the Department will expect the responsible person to remit sales tax on the gross sales from the machine.

If a sign is posted on the machine, the gross receipts subject to tax will be calculated. The gross receipts subject to tax equals the taxable gross receipts from vending machine sales divided by one (1) plus the tax rate.

EXAMPLE:

Vendor A owns and operates fifteen (15) vending machines. Vendor A does not have signs stating that the tax is included in the price of the items on five (5) machines, but does have signs on ten (10) machines. The total taxable sales from each machine is two hundred (\$200.00) per month. Because Vendor A does not post signs on five (5) of the machines, the Department will assume that Vendor A collected tax on the total gross receipts of the five (5) machines. For the remaining ten machines, the amount subject to tax is equal to \$2,000 divided by one plus the current tax rate. To calculate the tax due, the gross sales subject to tax must be multiplied by the current tax rate.

II. Vending Machine Sales Not Subject to Sales Tax

Sales of tangible personal property for eight cents (\$.08) or less are not subject to sales tax. Vending machine sales of items for eight cents (\$.08) or less are thus not taxable.

Certain vending machine sales could qualify as exempt sales because of the tax exempt status of the persons or organizations who make the sales. For example, if an elementary school sells food through a vending machine, the food sales could qualify as exempt school meals. There is a specific exemption from sales tax for school meals. Vending machine sales of food by

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an elementary or secondary school are exempt from sales tax regardless of who makes the sales as long as the sales are only made to students or school

employees. (See Sales Tax Information Bulletin #32)

A state operated correctional facility or city/county jail could make exempt sales from a vending machine if the vending machine sales were limited to detainees and employees. The sale by the correctional facility or jail is exempt because selling food or other items to detainees furthers the governmental purpose of the facility or jail. Vending machine sales to employees furthers a governmental purpose because keeping staff on-site contributes to the efficient operation of the facility.

Items sold by the State of Indiana, the federal government or any Indiana political subdivision must be purchased for resale by the exempt entity and the exempt entity must actually sell the item. Vending machine sales from a machine located in a jail or on a federal installation that are made by a person other than the jail or the federal government are taxable.

III. Purchases of Vending Machines

Generally, the purchase of a vending machine is taxable. A vending machine that actually produces a product for resale is not taxable because the vending machine is directly used in manufacturing. A vending machine would also be exempt if purchased by schools to serve school meals, a jail to provide service to detainees or the federal government.

IV. Other Food Holding Units

Sales from any device or equipment other than a vending machine, such as honor boxes, follow the general rules for any sales of property. Tax should be collected on taxable food items, such as candy and confectionery, sold from a cardboard honor box. Tax should also be collected on items, such as fruit and cookies, because it is for immediate consumption.

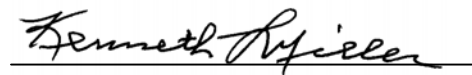
The method used for determining tax on vending machine sales may also be used to determine the amount subject to tax on sales from honor boxes or

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similar devices. Honor boxes must have a sign indicating that tax is included

to avoid the requirement to remit tax on the gross taxable sales from honor boxes.

A handwritten signature in cursive script, reading "Kenneth L. Miller", written over a horizontal line.

Kenneth L. Miller
Commissioner